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Sub-Commission on Prevention of
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of Minorities
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Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Joint written statement submitted by Disabled Peoples' International, Habitat International Coalition, Human Rights Advocates, International Indian Treaty Council, International Movement for Fraternal Union among Races and Peoples, Service, Peace and Justice in Latin America and Sierra Club Legal Defense Fund, non-governmental organizations in consultative status (category II), and by the Indian Council of South America, International Educational Development, International Movement against All Forms of Discrimination and Racism and the World Organization against Torture, non-governmental organizations on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[23 August 1994]

The realization of economic, social and cultural rights and the right to development

1. The submitting organizations would like to draw the attention of the Sub-Commission to the deteriorating status of economic, social and cultural rights and the right to development in the countries of the third world, due especially to the adverse impact of the policies of international financial institutions and the industrialized countries. They also acknowledge the work of the Commission on Human Rights and the Sub-Commission in identifying obstacles, difficulties and measures that need to be undertaken at various levels - inside and outside the United Nations system.

2. They are concerned about the fact that countries that are States parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other relevant instruments have not been able, despite their political will and interest in many cases, to undertake development policies and welfare programmes for the full enjoyment of economic, social and cultural rights as provided for by the Covenant. Since many of these countries have been forced by these institutions, particularly the World Bank and the International Monetary Fund (IMF), to adopt free-market economic policies and structural adjustment programmes, the people in these countries have been facing tremendous cuts in social spending. Privatization, investment in mega-development projects, and debt repayment and servicing further drain resources needed for development.

3. To understand the gravity and seriousness of the above-mentioned problems, we can find several cases from different countries where Governments have been forced to design and implement development projects without popular participation and meaningful access to information regarding decision-making processes. Governments that hesitate to implement such World Bank/IMF-dictated policies and programmes face the threats that development assistance and loans will be suspended. This leads to isolation in trade and commercial transactions as well as economic and trade embargoes. However, it is widely experienced that no adequate consideration has been given to a country's international treaty obligations and human rights commitment in designing and implementing such projects and other programmes by the World Bank or the IMF. On the other hand, these institutions act as the sister organizations of the United Nations, but without complying with its goals and objectives.

4. It may be relevant to take the example of Nepal for an in-depth study of this subject. Nepal, one of the least developed countries, established a multi-party system in 1990. It became a State party to several major international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights, and adopted policies of economic equality and justice as well as social welfare services in its new Constitution. However, certain economic and development policies pursued by the Government have resulted in criticisms in the Parliament and public protest. This has sometimes led to State-sponsored repression, indiscriminate killings in demonstrations and other violations of civil and political rights. For example, last month, a group of about 60 reportedly burst into the office of the Arun Public Commission, an independent non-governmental body which is conducting hearings on the controversial Arun III hydroelectric project, and wrestled the Commission members. The group then announced plans to break into the office of the Kathmandu-based International Institute for Human Rights, Environment and Development (INHURED International) to attack its officials. Similar attacks have also been threatened against members of the Arun Concerned Group. In January, INHURED's Executive Director and Programme Director received death threats after filing a petition at the Supreme Court of Nepal for public disclosure of Arun III information - a right guaranteed under the Constitution and international human rights treaty provisions. While the Government and local police have been informed of these threats and attacks, no action was taken due to Government support of the project.

5. On one occasion, due to a national and international outcry against injustices committed by the Government, the Prime Minister of Nepal, who was

furious with the World Bank for dictating Nepal's electricity tariff rate-increase and cuts in other public services, said: "I am a bit disappointed with the World Bank because sometimes they say one thing and sometimes another. They say they prefer democracy to be maintained in the countries receiving their aid, and yet they impose such conditions which put democracies like ours in trouble. I feel they are themselves not sure of what they want." (Weekend (Kathmandu), 28 May 1993.) The Prime Minister's statement is an example of how even a democratically elected Government, with a commitment to human rights, can fail in realizing economic and social rights.

6. The experience of Nepal in the realization of economic, social and cultural rights is that the current development models being imposed by the international financial institutions and industrialized countries are inappropriate, undemocratic, and are inconsistent with international human rights provisions. For example, the proposed Arun III hydroelectric project, to be funded by the World Bank and other sources, has raised serious questions regarding its negative impact on economic, social and cultural rights and the right to development due to preconditions set by the lenders. The people of Nepal had been denied information about the project (until the Supreme Court of Nepal delivered a landmark decision against the Government on the question) and an opportunity for broader participation in the process of design and implementation. The project, and the lenders, have been widely criticized for ignoring the adverse effects and preconditions that will further reduce existing and future resources and budgetary allocations in the economic and social sectors, e.g. welfare programmes, health education, housing. Furthermore, there is lack of accountability and transparency, and no definite plans exist for equitable distribution of benefits to be generated by the proposed project.

7. According to information received from INHURED International, which has been raising issues of the effective realization of economic, social and cultural rights under the International Covenant on Economic, Social and Cultural Rights under continuous physical threat and intimidation, the people of Nepal will never be able to realize these rights if the project is implemented with its present shape, size, and lending conditions. In July of this year, a regional meeting of NGOs in Kathmandu discussed the impact of structural adjustment programmes in South Asian countries and concluded that the living standards and health and educational attainments of the world's largest population are dramatically decreasing. They found that the Bank has been violating its own information and operational policies and procedures in designing and financing projects, including the acquisition, compensation and rehabilitation of the affected people and the communities. For example, there has been a violation of the Bank's Operational Directive 4.30 on Involuntary Resettlement regarding the Arun III project which outlines one of its primary aims as "providing people displaced by a project with the means to improve, or at least restore, their former living standards, earning capacity, and production levels" (art. 2). But the affected people are being compensated at rates far below the market price of their land. Similarly, the Bank strongly advocates "land for land" compensation, which is particularly important in the Arun Valley where people are not linked to the cash economy and where serious problems have already been highlighted from cash compensation measures.

8. As States parties to the International Covenant on Economic, Social and Cultural Rights, Governments have international obligations to ensure the full realization of economic, social and cultural rights of their people by adopting policies and programmes that are consistent with the treaty provisions, including article 25 of the Universal Declaration of Human Rights and article 11 of the Covenant. Likewise, no consideration has been given to the local culture of the people of the Arun Valley, which is largely composed of traditional ethnic groups, in the proposed construction of the project that will depend on foreign, rather than local labour, bringing a huge influx of outsiders into an isolated region of the country. The obligation of States parties to take necessary steps for the conservation and development of such culture is provided under article 15 (2) of the Covenant.

9. In conclusion, structural adjustment programmes and the conditionalities that are tied to development projects such as Arun III have negative effects on these rights all over the world. Such policies seriously interrupt "the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources" as provided for by article 25 of the Covenant.

10. The submitting organizations would like to urge the Sub-Commission to request:

(a) that the international financial institutions as part of the United Nations system:

(i) Comply with all international human rights instruments in designing and financing of any projects;

(ii) Review all lending conditionalities and effects of structural adjustment programmes in order to comply with the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development;

(iii) Provide all project documents and information to NGOs, affected people and the public;

(iv) Ensure that their actions in relation to projects and finance schemes do not undermine internal democratic processes;

(v) Allow investigation by United Nations human rights bodies into compliance of the policies, procedures, guidelines and standards relating to projects and obligations of a lending agency and a borrowing country; and

(vi) Respect the right of peoples freely to enjoy and dispose of their national resources;

(b) That the Government of Nepal:

(i) Comply with its international human rights commitments and obligations in reaching lending agreements with all bilateral and multilateral lenders and donors;

(ii) Review existing economic policies and development projects, including Arun III, to ensure that the design and financing of projects will not reduce currently available resources in economic and social sectors and cultural activities and that the benefits of such projects will be equally distributed to all the people of Nepal for the effective realization of economic, social and cultural rights and the right to development.

11. They would also like to urge the Sub-Commission to undertake a follow-up study of the impacts of policies and programme of the international financial institutions based on country cases and experiences and make recommendations for the monitoring of such matters by the human rights bodies of the United Nations.

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